

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re ENRON CORPORATION SECURITIES
AND ERISA LITIGATIONS

§ Civil Action No. H-01-3624
§ (Consolidated)
§

This Document Relates To:

§ CLASS ACTION
§

MARK NEWBY, et al.,

§ STIPULATION OF PARTIAL
§ SETTLEMENT
§

Plaintiffs,

vs.

ENRON CORP., et al.,

Defendants.

United States Courts
Southern District of Texas
FILED

JUL 09 2003

Michael N. Milby, Clerk

THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA, et al.,

Plaintiffs,

vs.

KENNETH L. LAY, et al.,

Defendants.

WASHINGTON STATE INVESTMENT
BOARD and EMPLOYER-TEAMSTERS
LOCAL NOS. 175 and 505 PENSION TRUST
FUND, et al.,

Plaintiffs,

vs.

KENNETH L. LAY, et al.,

Defendants.

PAMELA M. TITTLE, et al.,

Plaintiffs,

vs.

ENRON CORP., an Oregon corporation, et al.,

Defendants.

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This Stipulation of Partial Settlement dated as of August 29, 2002 (the "Stipulation"), is made and entered into by and among the following Settling Parties (throughout this Stipulation all capitalized terms used, but not immediately defined, are as defined in Part IV.1): (i) the Representative Plaintiffs (on behalf of themselves and each of their respective Settlement Class Members), by and through their counsel of record in the Actions; and (ii) AWSC, by and through its counsel. This Stipulation is intended by the Settling Parties to fully, finally and forever resolve, discharge and settle the Released Claims, upon and subject to the terms and conditions hereof.

I. THE LITIGATION

AWSC and the Defendant Member Firms have been named as defendants in the Actions. AWSC and the Defendant Member Firms moved to dismiss the Actions on the following grounds:

1. The Court lacks personal jurisdiction over AWSC and the Defendant Member Firms.
2. The complaints fail to state a claim upon which relief can be granted because plaintiffs failed to allege facts that would sustain a claim that AWSC and the Defendant Member Firms engaged in any actionable conduct or that they should be held liable for the actions of any of the other defendants named in the Actions.

II. AWSC'S DENIALS OF WRONGDOING AND LIABILITY

AWSC has denied and continues to deny each and all of the claims and contentions alleged by the Representative Plaintiffs in the Actions. AWSC has expressly denied and continues to deny all charges of wrongdoing or liability against it arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Actions and maintains that, in any event, the Court has no jurisdiction over it. AWSC also has denied

and continues to deny, *inter alia*, the allegations that the Representative Plaintiffs or the Settlement Class Members have suffered damage or that the Representative Plaintiffs or the Settlement Class Members were harmed by AWSC's conduct alleged in the Actions.

Nonetheless, AWSC has concluded that further conduct of the Actions would be protracted and expensive, and that it is desirable that the Actions be fully and finally settled in the manner and upon the terms and conditions set forth in this Stipulation. AWSC also has taken into account the uncertainty and risks inherent in any litigation, especially in complex cases like the Actions. AWSC has, therefore, determined that it is desirable and beneficial to it that the Actions be settled in the manner and upon the terms and conditions set forth in this Stipulation.

III. CLAIMS OF THE REPRESENTATIVE PLAINTIFFS AND BENEFITS OF SETTLEMENT

The Representative Plaintiffs believe that the claims asserted in the Actions have merit and that the evidence developed to date supports the claims asserted. However, counsel for the Representative Plaintiffs recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Actions against AWSC and the Defendant Member Firms through trial and appeals. Counsel for the Representative Plaintiffs also have taken into account the uncertain outcome and the risk of any litigation, especially complex cases such as the Actions, as well as the difficulties and delays inherent in such litigation. Counsel for the Representative Plaintiffs also are mindful of the inherent problems of proof under, and possible defenses to, the violations asserted in the Actions. Counsel for the Representative Plaintiffs believe that the settlement set forth in this Stipulation confers substantial benefits upon the Settlement Class Members. Based on their evaluation, counsel for the Representative Plaintiffs have determined that the settlement set forth in this Stipulation is in the best interests of the Representative Plaintiffs and the Settlement Class Members.

IV. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the Representative Plaintiffs (on behalf of themselves and each of their respective Settlement Class Members) and AWSC, by and through their respective counsel or attorneys of record, that, subject to the approval of the Court, the Actions and the Released Claims as against the Released Entities shall be finally and fully compromised, settled and released, and the Actions shall be dismissed with prejudice, as to the Released Entities, upon and subject to the terms and conditions of this Stipulation, as follows.

1. Definitions

As used in this Stipulation the following terms have the meanings specified below. In the event of any inconsistency between any definition set forth below and any definition set forth in any other document related to the settlement set forth in this Stipulation, the definition set forth below shall control.

1.1 “Actions” means (i) the Newby Action, (ii) the WSIB Action, and (iii) the Tittle Action.

1.2 “Arthur Andersen LLP” is an Illinois limited liability partnership that provided auditing and other professional services in the United States.

1.3 “Authorized Claimant” means any Settlement Class Member who is entitled to a distribution from the Gross Settlement Fund pursuant to the terms of the Stipulation, any Plan of Allocation, or any order of the Court.

1.4 “AWSC” means Andersen Worldwide Societe Cooperative, a cooperative organization formed under the Swiss Code of Obligations and domiciled in Geneva, Switzerland. AWSC is a limited liability entity under Swiss law. AWSC served as the coordinating entity of

the Andersen Worldwide Organization, which had Member Firms (as defined in paragraph 1.5(a), below) in countries throughout the world. Each Member Firm was formed under the laws of the country in which it was located. The relationship between each Member Firm and AWSC was a contractual one, governed by a separate Member Firm Interfirm Agreement between each Member Firm and AWSC. AWSC does not provide professional services to any client and does not earn a profit.

1.5 “AWSC Entity” means:

(a) all current and former firms worldwide that have each entered into a “Member Firm Interfirm Agreement” with AWSC (each a “Member Firm”), including without limitation the Defendant Member Firms; Andersen Legal, CV; Accenture LLP (formerly known as Andersen Consulting LLP); Accenture Partners, SC (formerly known as Andersen Consulting Partners, SC); all other firms formerly known as Andersen Consulting; and Accenture Ltd; in each instance, with the exception of Arthur Andersen LLP;

(b) the respective past, present, and future subsidiaries, parents, predecessors, Member Firms, affiliates of all types, including without limitation cooperating, representative, affiliate, and related firms, and divisions of AWSC and/or of any entity covered by subparagraph (a) above (in each case, with the exception of Arthur Andersen LLP);

(c) all past, present, and future partners, members, officers, directors, principals, shareholders, advisors, agents and employees of AWSC and/or of any entity covered by subparagraphs (a) or (b) above (in each case, with the exception of Arthur Andersen LLP and its partners);

(d) all heirs, executors, administrators, spouses, assigns, and bankruptcy estates of any person or entity covered by subparagraph (c) above; and

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(e) all successors to, acquirers of, merger partners of, or entities that have otherwise entered into a contractual arrangement with respect to association, cooperation, coordination, combination or integration of their businesses (now or in the future) with, AWSC or any entity covered by subparagraphs (a), (b), (c), or (d) above (including without limitation successors to, acquirers or merger partners of, or contractual counterparties with respect to any portions or assets (including personnel and clients) of AWSC or of any entity covered by subparagraphs (a), (b), (c), or (d) above) and all affiliates of any type of any such successor, acquirer, merger partner, or contractual counterparty (including without limitation any worldwide organization with which any such entity may be associated) (in each case, with the exception of Arthur Andersen LLP); provided, however, that such successors, acquirers, merger partners, contractual counterparties, or affiliates of any of them are deemed to be AWSC Entities only with respect to claims against them based on, arising out of, or related to acts or omissions of AWSC, any entity covered by subparagraphs (a), (b), (c), or (d) above, or Arthur Andersen LLP.

1.6 “Court” means the United States District Court for the Southern District of Texas, Houston Division.

1.7 “Defendants” means each and all of the defendants that have been or may be named in any of the complaints in the Actions.

1.8 “Defendant Member Firms” means the current and former Member Firms of AWSC presently named as defendants in the Actions (with the exception of Arthur Andersen LLP).

1.9 “Effective Date” means the first date by which all of the events and conditions specified in paragraph 7.1 of the Stipulation have occurred and have been met, respectively.

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1.10 “Enron” means Enron Corporation and all of its past and present parents, subsidiaries, divisions, joint ventures, predecessors, successors, assigns, related or affiliated entities, and any entity in which any of them has a controlling interest.

1.11 “Escrow Agent” means, until the execution of this Stipulation, the law firm of Milberg Weiss Bershad Hynes & Lerach LLP or its successor(s). After the execution of this Stipulation and until the entry of the Settlement Fund Decision Order, “Escrow Agent” means the law firms of Milberg Weiss Bershad Hynes & Lerach LLP, Hagens Berman LLP, and Keller Rohrback LLP, or their respective successors, jointly and severally. After the entry of the Settlement Fund Decision Order, “Escrow Agent” means, collectively: (a) with respect to the Newby Settlement Fund, the law firm of Milberg Weiss Bershad Hynes & Lerach LLP or its successor(s); and (b) with respect to the Tittle Settlement Fund, the law firms of Hagens Berman LLP and Keller Rohrback LLP or their respective successors, jointly and severally.

1.12 “Expense Fund” means a principal amount not to exceed Fifteen Million (\$15,000,000) Dollars plus any interest that may accrue thereon. The Expense Fund shall be paid from, and not in addition to, the Gross Settlement Fund.

1.13 “Expense Fund Decision Order” means a future order of the Court approving the allocation of the Expense Fund between the Newby and WSIB Actions, on the one hand, and the Tittle Action, on the other. The Representative Plaintiffs have agreed that, subject to approval by the Court, the Expense Fund shall be allocated in the amounts of Twelve Million and Seventy Five Thousand (\$12,075,000) Dollars, or 80.5 percent of the Expense Fund, to the Newby and WSIB Actions, on the one hand, and Two Million Nine Hundred and Twenty Five Thousand (\$2,925,000) Dollars, or 19.5 percent of the Expense Fund, to the Tittle Action, on the other. That portion of the Expense Fund allocated by the Court to the Newby and WSIB Actions shall

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be deemed the “Newby Expense Fund.” That portion of the Expense Fund allocated to the Tittle Action shall be deemed the “Tittle Expense Fund.”

1.14 “Fiduciary of the Savings Plan” means State Street Global Advisors or its successors.

1.15 “Final” means, with respect to any order of court, including without limitation the Judgment, that such order represents a final and binding determination of all issues within its scope and is not subject to further review on appeal or otherwise. Without limitation, an order becomes “Final” when: (a) where no appeal has been filed, the prescribed time for commencing any appeal has expired; or (b) where an appeal has been filed, either (i) the appeal has been dismissed and the prescribed time, if any, for commencing any further appeal has expired, or (ii) the order has been affirmed in its entirety and the prescribed time, if any, for commencing any further appeal has expired. For purposes of this paragraph, an “appeal” includes appeals as of right, discretionary appeals, interlocutory appeals, proceedings involving writs of certiorari or mandamus, and any other proceedings of like kind. Any appeal pertaining solely to the arbitration described in paragraph 2.4, below, or to any Plan of Allocation, or to any application for attorneys’ fees and expenses pursuant to paragraphs 6.1 and 6.2, below, shall not in any way delay or preclude the Judgment from becoming Final.

1.16 “Gross Settlement Fund” means, until the entry of the Settlement Fund Decision Order, the Settlement Amount plus any interest that may accrue thereon. After the entry of the Settlement Fund Decision Order, “Gross Settlement Fund” means the Newby Settlement Fund (as defined in paragraph 1.38, below) and the Tittle Settlement Fund (as defined in paragraph 1.38, below), plus any interest that may accrue thereon, in the aggregate. For the avoidance of doubt, the term “Gross Settlement Fund” shall always include the Expense Fund.

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1.17 “Judgment” means a judgment to be rendered by the Court, substantially in the form attached hereto as Exhibit B.

1.18 “Lead Securities Plaintiff” means the Regents of the University of California.

1.19 “Newby Action” means the actions brought on behalf of all purchasers (and their beneficiaries) of any publicly traded securities of Enron Corporation from October 19, 1998, through November 27, 2001, inclusive (excluding Defendants, the officers and directors of Enron, and members of their immediate families or their successors, heirs, and legal representatives), proceeding as a consolidated action captioned *Newby, et al. v. Enron Corp., et al.*, No. H 01-CV-3624 (S.D. Tex.).

1.20 “Newby Settlement Class” means all purchasers (and their beneficiaries) of any publicly traded securities of Enron Corporation from September 9, 1997 through November 27, 2001, inclusive. Excluded from the Newby Settlement Class are Defendants, the officers and directors of Enron, and members of their immediate families or their successors, heirs, and legal representatives. Also excluded from the Newby Settlement Class are those Persons who timely and validly request exclusion from the Settlement Class, to the extent that they are able to do so under Rule 23 of the Federal Rules of Civil Procedure, pursuant to the Mailed Notice (as defined in paragraph 3.1, below).

1.21 “Newby Settlement Class Member” or “Member of the Newby Settlement Class” means a Person who falls within the definition of the Newby Settlement Class.

1.22 “Non-Andersen Defendants” means the defendants that have been named in the complaints in the Actions other than (a) AWSC, (b) the Defendant Member Firms, (c) Arthur

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Andersen LLP, and (d) any partners, principals, or employees of any of the entities identified in clauses (a) through (c) of this paragraph 1.22.

1.23 “Non-Settling Defendants” means each and all of the Defendants except AWSC and each AWSC Entity (excluding Arthur Andersen LLP and its partners).

1.24 “Notice and Claims Administrator” means Gilardi & Co. LLC or its successors.

1.25 “Person” means an individual, corporation, limited liability corporation, professional corporation, limited liability partnership, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof, and any business or legal entity and any spouses, heirs, predecessors, successors, representatives, or assignees of any of the foregoing.

1.26 “Plaintiffs’ Settlement Counsel” means, collectively, (a) Milberg Weiss Bershad Hynes & Lerach LLP, William S. Lerach, Keith F. Park, 401 B Street, Suite 1700, San Diego, California 92101, Telephone (619) 231-1058; (b) Hagens Berman LLP, Steve W. Berman, 1301 Fifth Avenue, Suite 2900, Seattle, Washington 98101, Telephone (206) 623-7292; and (c) Keller Rohrback LLP, Lynn Lincoln Sarko, 1201 Third Avenue, Suite 3200, Seattle, Washington 98101-3052, Telephone (206) 623-1900.

1.27 “Plan of Allocation” means any plan or formula of allocation of the Gross Settlement Fund, to be approved by the Court upon further notice to the Class, whereby the Net Settlement Fund (as defined in paragraph 5.1, below) shall in the future, upon or after entry of the Settlement Fund Decision Order, be distributed to Authorized Claimants. Any Plan of

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Allocation is not part of the Stipulation and the Released Entities shall have no responsibility or liability with respect thereto.

1.28 “Proof of Claim and Release” means the form to be sent to Newby Settlement Class Members, upon further order(s) of the Court, by which Newby Settlement Class Members may make claims against the Newby Settlement Fund for damages allegedly incurred by reason of their investment(s) in Enron publicly traded securities.

1.29 “Recordkeeper of the Savings Plans” means Hewitt Associates LLC or its successors.

1.30 “Released Claims” means any and all claims (including “Unknown Claims” as defined in paragraph 1.45, below) of any nature whatsoever that any Settlement Class Member has, had, or may have against AWSC and each AWSC Entity (but not against Arthur Andersen LLP or its partners) based on, arising out of, or related to, directly or indirectly, (i) purchases of Enron’s publicly traded securities, (ii) the Savings Plans or any “phantom stock” that employees (and their beneficiaries) received as compensation, or (iii) any services (audit, consulting, or otherwise) provided to Enron by Arthur Andersen LLP, AWSC, or any AWSC Entity. For the avoidance of doubt, “Released Claims” includes, but is not limited to, both the Title ERISA Claims and the Title Non-ERISA Claims.

1.31 “Released Entities” means AWSC and each AWSC Entity (but not Arthur Andersen LLP or its partners).

1.32 “Representative Plaintiffs” means the Lead Securities Plaintiff and each of the named plaintiffs in the WSIB Action and the Title Action.

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1.33 “Savings Plans” means the Enron Corporation Savings Plan, the Enron ESOP Plan, and the Enron Cash Balance Plan.

1.34 “Settlement Amount” means the principal amount of Forty Million (\$40,000,000) Dollars.

1.35 “Settlement Class” means the Newby Settlement Class and the Tittle Settlement Class, collectively. Excluded from the Settlement Class are those Persons who timely and validly request exclusion from the Settlement Class, to the extent that they are able to do so under Rule 23 of the Federal Rules of Civil Procedure, pursuant to the Mailed Notice (as defined in paragraph 3.1, below). For the avoidance of doubt, the Newby Settlement Class and the Tittle Settlement Class are not mutually exclusive of each other, such that any individual Person may at once be a Member of both the Newby Settlement Class and the Tittle Settlement Class.

1.36 “Settlement Class Member” or “Member of the Settlement Class” mean a Person who falls within the definition of the Settlement Class.

1.37 “Settlement Class Period” means, collectively, the period commencing on September 9, 1997 through October 18, 1998, inclusive, in the WSIB Action; October 19, 1998 through November 27, 2001, inclusive, in the Newby Action; and November 27, 1995 through November 26, 2001, inclusive, in the Tittle Action.

1.38 “Settlement Fund Decision Order” means a future order of the Court allocating the Gross Settlement Fund between the Newby Action and the WSIB Action, on the one hand, and the Tittle Action, on the other. That portion of the Gross Settlement Fund allocated by the Court to the Newby and WSIB Actions shall be deemed the “Newby Settlement Fund.” That portion of the Gross Settlement Fund allocated to the Tittle Action shall be deemed the “Tittle

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Settlement Fund.” For the avoidance of doubt, the term “Newby Settlement Fund” shall always include the Newby Expense Fund (as defined in paragraph 1.13, above) and the term “Tittle Settlement Fund” shall always include the Tittle Expense Fund (as defined in paragraph 1.13, above).

1.39 “Settling Parties” means, collectively, AWSC and the Representative Plaintiffs (on behalf of themselves and each of their respective Settlement Class Members).

1.40 “Tittle Action” means the action brought on behalf of all participants (and their beneficiaries), including holders during the relevant period (and their beneficiaries), in the Savings Plans, the recipients of any “phantom stock” that employees (and their beneficiaries) received as compensation, and the Savings Plans themselves during the period from November 27, 1995, through November 26, 2001, inclusive (excluding Defendants, the officers and directors of Enron, and members of their immediate families or their successors, heirs, and legal representatives), proceeding as a consolidated class action captioned *Tittle, et al. v. Enron Corp., et al.*, No. H 01-CV-3913 (S.D. Tex.).

1.41 “Tittle ERISA Claims” means any claim for relief alleged in Count I, II, III, IV, or V in the First Consolidated and Amended Complaint in the Tittle Action that any Tittle Settlement Class Member has, had, or may have against AWSC and each AWSC Entity (but not against Arthur Andersen LLP or its partners).

1.42 “Tittle Non-ERISA Claims” means any and all Released Claims that any Tittle Settlement Class Member has, had, or may have other than the Tittle ERISA Claims.

1.43 “Tittle Settlement Class” means all participants (and their beneficiaries), including holders during the relevant period (and their beneficiaries), in the Savings Plans, the

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recipients of any “phantom stock” that employees (and their beneficiaries) received as compensation, and the Savings Plans themselves during the period from November 27, 1995, through November 26, 2001, inclusive. Excluded from the Tittle Settlement Class are Defendants, the officers and directors of Enron, and members of their immediate families or their successors, heirs, and legal representatives. Also excluded from the Tittle Settlement Class are those Persons who timely and validly request exclusion from the Settlement Class, to the extent that they are able to do so under Rule 23 of the Federal Rules of Civil Procedure, pursuant to the Mailed Notice (as defined in paragraph 3.1, below).

1.44 “Tittle Settlement Class Member” or “Member of the Tittle Settlement Class” means a Person who falls within the definition of the Tittle Settlement Class.

1.45 “Unknown Claims” means any Released Claim that any Representative Plaintiff or Settlement Class Member does not know or suspect to exist in his, her or its favor at the time of the release of the Released Entities that if known by him, her or it, might have affected his, her or its settlement with and release of the Released Entities, or might have affected his, her or its decision not to object to this settlement or not to exclude himself, herself or itself from the Settlement Class. With respect to any and all Released Claims, the Settling Parties stipulate and agree that, upon the Effective Date, the Representative Plaintiffs shall expressly waive, and each of the Settlement Class Members shall be deemed to have waived and by operation of the Judgment shall have waived, the provisions, rights and benefits of California Civil Code §1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

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The Representative Plaintiffs shall expressly waive, and each of the Settlement Class Members shall be deemed to have waived and by operation of the Judgment shall have waived, any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, that is similar, comparable or equivalent to California Civil Code §1542. The Representative Plaintiffs and Settlement Class Members may hereafter discover facts in addition to or different from those that any of them now knows or believes to be true with respect to the subject matter of the Released Claims, but each Representative Plaintiff shall expressly have, and each Settlement Class Member shall be deemed to have and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, that now exist, or heretofore have existed upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, reckless, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. The Representative Plaintiffs acknowledge, and the Settlement Class Members shall be deemed to have acknowledged, and by operation of the Judgment shall have acknowledged, that the foregoing waiver was separately bargained for and a key element of the settlement of which this release is a part.

1.46 “WSIB Action” means the action brought on behalf of all purchasers of the publicly traded equity and debt securities of Enron from September 9, 1997 through October 18, 1998, inclusive (excluding Defendants, the officers and directors of Enron, and members of their immediate families or their successors, heirs, and legal representatives), captioned *Washington State Investment Board, et al. v. Kenneth L. Lay, et al.*, Civil Action No. H-02-3401 (S.D. Tex.).

2. The Settlement

a. The Gross Settlement Fund

2.1 The Settlement Amount (plus any interest that may accrue thereon as provided for herein) shall constitute the Gross Settlement Fund and was paid to the Escrow Agent by AWSC in the form of a wire transfer into an interest bearing account maintained by the Escrow Agent on or about August 30, 2002.

2.2 No amount may be disbursed from the Gross Settlement Fund unless and until the Effective Date, except that: (a) the Expense Fund shall be available to the Representative Plaintiffs, subject to District Court approval, for the payment of expenses, excluding attorneys fees, associated with the prosecution of the Actions; (b) reasonable costs of the notice described in paragraph 3.1 may be paid from the Gross Settlement Fund as they become due; (c) Taxes and Tax Expenses (as defined in paragraph 2.11(b), below) may be paid from the Gross Settlement Fund as they become due; and (d) any Fee and Expense Award that is allowed by the Court pursuant to paragraphs 6.1 and 6.2, below, may be paid from the Gross Settlement Fund in accordance with the provisions of paragraphs 6.1 through 6.5, below.

2.3 Under no circumstances will AWSC be required to pay more than the Settlement Amount pursuant to this Stipulation and the settlement set forth herein.

b. Allocation Of The Gross Settlement Fund Among The Actions

2.4 The Representative Plaintiffs have agreed that the Gross Settlement Fund, less the amounts agreed on among the Settling Parties and approved by the Court to be allocated to the Expense Fund, will be allocated between the Newby Action and the WSIB Action, on the one hand, and the Tittle Action, on the other, by confidential, binding, and non-appealable arbitration. The arbitration will be conducted by Layne Phillips. The arbitration shall be conducted in accordance with the terms of this

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Stipulation and in accordance with those protocols set forth in that certain letter agreement between counsel for the Representative Plaintiffs dated as of May ____, 2003. The arbitration will be conducted promptly after the Court has decided the pending motion to dismiss in the Tittle Action. After the arbitrator has ruled and upon further notice to the Settlement Class and an opportunity to be heard, including each Settlement Class Member's right to object to the arbitrator's decision, the Representative Plaintiffs will present the arbitration decision to the Court for approval. No Representative Plaintiff, directly or indirectly, may challenge the arbitration decision.

2.5 The Settling Parties agree that the arbitration proceedings described in paragraph 2.4, above, are not part of the settlement among the Representative Plaintiffs, on the one hand, and AWSC, on the other, and shall not operate to terminate or cancel the Stipulation, or affect or delay the finality of the Judgment and the settlement of the Actions as set forth herein.

c. Other Settlement Terms

2.6 AWSC and the Defendant Member Firms agree voluntarily to provide to Representative Plaintiffs relevant information on the basis set forth in subparagraphs (a) through (g) below. It is understood and agreed that nothing in this paragraph 2.6 shall be deemed, construed, or argued by any party in any forum (i) to give rise to any obligation or responsibility on the part of Arthur Andersen LLP, (ii) to waive or otherwise impair any privilege of Arthur Andersen LLP, or (iii) without limiting the obligation of AWSC and the Defendant Member Firms to produce documents that are in their possession, to require the production of any document that is in the possession of Arthur Andersen LLP.

(a) To the extent permitted by the laws, regulations, and professional standards of their respective countries and subject to subparagraphs (d) and (e) below, AWSC and the Defendant Member Firms will make available to the Representative Plaintiffs all of the following categories of documents in their possession, custody, or control:

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(i) Records of the work performed in audits of, or consulting engagements performed for, Enron and/or the Savings Plans for the period 1995 through 2001, including, but not limited to, audit workpapers, correspondence, and quarterly review files;

(ii) Documents relating to the Enron partnerships described in the complaints in the Actions;

(iii) Documents relating to the public offerings of Enron securities during the class periods asserted in the Actions;

(iv) Documents reflecting or constituting communications regarding Enron with any of the defendants named in the amended complaints in the Actions; provided, however, that this subparagraph (iv) does not include documents reflecting or constituting communications regarding Enron solely between or among AWSC, any AWSC Entity, and/or Arthur Andersen LLP that were created subsequent to the class period asserted in the Actions and that do not themselves reflect communications with any of the Non-Andersen Defendants; and

(v) Documents produced by AWSC or any Defendant Member Firm to any governmental agency investigating Enron or produced by such firms in Enron's bankruptcy proceedings.

(b) Upon reasonable notice, Defendant Member Firms will use their best efforts to identify and make available witnesses from such Defendant Member Firms, to the extent they are in the member firm's control, for interview by counsel to the Representative Plaintiffs at a mutually convenient time and place concerning Enron's financial statements and the matters described in paragraph 2.6(a) above.

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(c) If Representative Plaintiffs determine that they need similar information from an AWSC Entity other than the Defendant Member Firms, AWSC will undertake to use its best efforts to determine whether that AWSC Entity is in possession or control of such information and, if so, (i) to assist Representative Plaintiffs in obtaining such information on a voluntary basis, and (ii) to obtain waivers of the attorney-client (or any other) privilege and the work product (or any similar) doctrine by that AWSC Entity with respect to any document otherwise called for by paragraph 2.6(a) that was created during the class periods encompassed in the Actions. Moreover, nothing in this paragraph 2.6 shall preclude Representative Plaintiffs from pursuing discovery against any AWSC Entity other than the Defendant Member Firms.

(d) AWSC and the Defendant Member Firms agree: (1) to provide such consents and/or waivers on their own behalves as are necessary or convenient to carry out the purposes of this paragraph 2.6; (2) to cooperate with Representative Plaintiffs in obtaining such consents and/or waivers from any other person or entity, and/or (3) to consent on their own behalves to the issuance of any orders or other formal process necessary or convenient to carry out the purposes of this paragraph 2.6. The provisions of this subparagraph shall also apply to AWSC under the circumstances described in paragraph 2.6(c).

(e) The Defendant Member Firms waive the attorney-client (or any other) privilege and the work product (or any similar) doctrine with respect to any document otherwise called for by paragraph 2.6(a) that was created during the class periods asserted in the Actions. Nothing in this Stipulation or any related document shall be deemed, construed, or argued by any party to waive or otherwise affect any attorney-client (or any other) privilege or work product (or any similar) protection held by Arthur Andersen LLP or its partners.

(f) AWSC shall provide to Representative Plaintiffs a privilege log identifying all documents that: (i) are otherwise called for by paragraph 2.6(a), (ii) were created during the class periods asserted in the Actions, and (iii) are either (A) subject to any attorney-client (or any other) privilege or work product (or any similar) protection held either solely by AWSC or jointly by AWSC and any Defendant Member Firm, or (B) are subject to a claim that the entity in possession of such documents does not have the authority to produce such documents to the Representative Plaintiffs, whether for reasons of ownership of such documents or otherwise.

(g) It is the intent of the Settling Parties that this voluntary discovery agreement will achieve relatively prompt access to relevant information for the Representative Plaintiffs in a manner that is as efficient and inexpensive as possible for them and for the producing parties. It is understood and agreed that Representative Plaintiffs will make all reasonable attempts to secure the production of documents called for by subparagraph (a) above through consent or legal process, and shall not request any producing party to undertake any process that would require such producing party to determine, on a document-by-document or similar basis, which documents in its possession, custody, or control may properly be produced until such reasonable attempts to proceed through consent or legal process have been exhausted. Representative Plaintiffs and AWSC agree that all disputes that arise concerning this voluntary discovery agreement will be resolved by an agreed-to arbitrator (or, in the absence of such agreement, an arbitrator appointed by the Court) on a binding non-appealable basis in a manner that is efficient, prompt, and inexpensive. The cost of such arbitration shall be divided equally between the Representative Plaintiffs on the one hand and AWSC on the other.

(h) All orders entered during the course of the Actions relating to the confidentiality, disclosure, and dissemination of information are incorporated into and made part of this Stipulation, and AWSC and the Defendant Member Firms shall have the same rights as other parties to the Actions to seek protection under such orders with respect to documents and other information made available to the Representative Plaintiffs pursuant to this paragraph 2.6.

d. The Escrow Agent

2.7 The Escrow Agent shall invest the Gross Settlement Fund in instruments backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof and shall reinvest the proceeds of these instruments as they mature in similar instruments at their then current market rates. The Escrow Agent shall bear all risks related to investment of the Gross Settlement Fund.

2.8 The Escrow Agent shall not disburse the Gross Settlement Fund except as provided in this Stipulation, by an order of the Court, or with the prior written agreement of counsel for AWSC and Plaintiffs' Settlement Counsel.

2.9 Subject to further order and/or directions as may be made by the Court, the Escrow Agent is authorized to execute such transactions on behalf of the Settlement Class Members as are consistent with the terms of this Stipulation.

2.10 All funds held by the Escrow Agent shall be deemed and considered to be *in custodia legis*, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to this Stipulation and/or further order(s) of the Court.

e. Taxes

2.11 The Settling Parties and the Escrow Agent agree to treat the Gross Settlement Fund as being at all times a "qualified settlement fund" within the meaning of Treas. Reg.

§1.468B-1. The Escrow Agent shall timely make such elections as necessary or advisable to carry out the provisions of this paragraph 2.11, including the “relation-back election” (as defined in Treas. Reg. §1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Escrow Agent timely and properly to prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

(a) For the purpose of §468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “administrator” shall be the Escrow Agent. The Escrow Agent shall timely and properly file all informational and other tax returns necessary or advisable with respect to the Gross Settlement Fund (including, without limitation, the returns described in Treas. Reg. §1.468B-2(k)). Such returns (as well as the election described in this paragraph 2.11) shall be consistent with this paragraph 2.11 and in all events shall reflect that all Taxes as defined in subsection (b) below (including any estimated Taxes, interest or penalties) on the income earned by the Gross Settlement Fund shall be paid out of the Gross Settlement Fund as provided in paragraph 2.11(b) hereof.

(b) All (i) taxes (including any estimated taxes, interest or penalties) arising with respect to the income earned by the Gross Settlement Fund, including without limitation any taxes or tax detriments that may be imposed upon AWSC or its counsel with respect to any income earned by the Gross Settlement Fund for any period during which the Gross Settlement Fund does not qualify as a “qualified settlement fund” for federal or state income tax purposes (collectively, “Taxes”), and (ii) expenses and costs incurred in connection with the operation and implementation of this paragraph 2.11, including without limitation expenses of tax attorneys

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and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in this paragraph 2.11 (collectively, "Tax Expenses"), shall be paid out of the Gross Settlement Fund; in all events neither the Released Entities nor their counsel shall have any liability or responsibility for the Taxes or the Tax Expenses. The Escrow Agent shall indemnify and hold harmless AWSC and its counsel for Taxes and Tax Expenses (including, without limitation, Taxes payable by reason of any such indemnification). Further, Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the Gross Settlement Fund and shall timely be paid by the Escrow Agent out of the Gross Settlement Fund without prior order from the Court and the Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to Authorized Claimants any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treas. Reg. §1.468B-2(1)(2)); neither AWSC nor its counsel is responsible therefor, nor shall they have any liability therefor. The Settling Parties agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this paragraph 2.11.

3. Preliminary Approval Order, Notice Order, and Settlement Hearing

3.1 Promptly after execution of the Stipulation, the Settling Parties shall submit the Stipulation together with its Exhibits to the Court and shall jointly apply for entry of an order (the "Preliminary Approval Order") substantially in the form and content of Exhibit A attached hereto, requesting, *inter alia*, the preliminary approval of the settlement set forth in the Stipulation, and final approval of forms of notice to be mailed to all Settlement Class Members who can be identified with reasonable effort (the "Mailed Notice") and to be published (the

“Summary Notice”), substantially in the forms and contents of Exhibits A-1 and A-2 hereto, respectively. The Mailed Notice shall include the general terms of the settlement set forth in the Stipulation and shall set forth the procedure by which Persons who otherwise would be Members of the Settlement Class may, with respect to all Released Claims except for the Tittle ERISA Claims, request to be excluded from the Settlement Class. The date and time of the Settlement Hearing shall be added to the Mailed Notice before it is mailed to Settlement Class Members.

3.2 The Settling Parties shall request that, after the Mailed Notice and Summary Notice have been mailed and published, respectively, in accordance with paragraph 3.1, above, the Court hold a hearing (the “Settlement Hearing”) and finally approve the settlement of the Actions with respect to the Settling Parties.

3.3 The Settling Parties hereby stipulate to certification of the Settlement Class solely for purposes of this Stipulation and the settlement set forth herein, as follows:

(a) With respect to the Tittle ERISA Claims, the Settlement Class shall be certified pursuant to Rule 23(b)(1) of the Federal Rules of Civil Procedure; and

(b) With respect to all Released Claims other than the Tittle ERISA Claims, the Settlement Class shall be certified pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure.

4. Releases

4.1 Upon the Effective Date, as defined in paragraph 1.9 hereof, the Representative Plaintiffs and each of the Settlement Class Members, on behalf of themselves, their successors and assigns, and any other Person claiming (now or in the future) through or on behalf of them, and regardless of whether any such Representative Plaintiff or Settlement Class Member ever seeks or obtains by any means, including without limitation by submitting a Proof of Claim and

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Release, any distribution from the Gross Settlement Fund, shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against all Released Entities and shall have covenanted not to sue all such Released Entities with respect to all such Released Claims, and shall be permanently barred and enjoined from instituting, commencing, or prosecuting any such Released Claim against any Released Entity.

4.2 On or after the Effective Date and upon request of counsel for AWSC on behalf of any AWSC Entity, the Representative Plaintiffs (on behalf of themselves and their respective Settlement Class Members), through their respective counsel, shall provide an individual form of release, in the form and content of Exhibit C attached hereto, to such AWSC Entity. Upon further request on behalf of such AWSC Entity, the Representative Plaintiffs (on behalf of themselves and their respective Settlement Class Members) shall stipulate to the entry by the Court of an order, substantially in the form and content of Exhibit D attached hereto, specifically approving such individual form of release. Any such individual form of release shall have the same scope and effect, but no additional scope or effect, as the release provided to such AWSC Entity under this Stipulation, and shall be subject to all terms and conditions set forth in this Stipulation.

4.3 Upon the Effective Date, as defined in paragraph 1.9 hereof, each of AWSC and the Defendant Member Firms shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released, relinquished and discharged each and all of the Settlement Class Members and counsel to the Representative Plaintiffs from all claims (including Unknown Claims), arising out of, in any way relating to, or in connection with the institution,

prosecution, assertion, settlement or resolution of the Actions or the Released Claims except to enforce the releases and other terms and conditions contained in this Stipulation.

5. Administration and Calculation of Claims, Final Awards and Supervision and Distribution of Gross Settlement Fund

5.1 Upon further notice to the Settlement Class and appropriate orders of the Court, the Notice and Claims Administrator, subject to such supervision and direction of the Court and/or Plaintiffs' Settlement Counsel as may be necessary or as circumstances may require, shall administer and calculate the claims to be submitted by Settlement Class Members and shall oversee distribution of the Net Settlement Fund (as defined below) pursuant to the Plan of Allocation to Authorized Claimants. Subject to the terms of this Stipulation and any order(s) of the Court, the Gross Settlement Fund shall be applied as follows:

(a) to pay all costs and expenses reasonably and actually incurred in connection with locating Settlement Class Members and providing notice to them pursuant to paragraph 3.1, above, in connection with administering and distributing the Gross Settlement Fund to Authorized Claimants, and in connection with paying escrow fees and costs, if any;

(b) to pay all costs and expenses, if any, reasonably and actually incurred in soliciting Newby Settlement Class Members' claims and assisting with the filing and processing of such claims; provided, however, that all costs and expenses described in this subparagraph (b) shall be allocated to the Newby Settlement Fund, and none shall be allocated to the Tittle Settlement Fund, in the Settlement Fund Decision Order;

(c) to pay all costs and expenses, if any, reasonably and actually incurred in soliciting Tittle Settlement Class Members' claims and assisting with the filing and processing of such claims; provided, however, that all costs and expenses described in this subparagraph (c)

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shall be allocated to the Tittle Settlement Fund, and none shall be allocated to the Newby Settlement Fund, in the Settlement Fund Decision Order;

- (d) to pay the Taxes and Tax Expenses described in paragraph 2.11, above;
- (e) to pay any Fee and Expense Award that is allowed by the Court pursuant to paragraphs 6.1 and 6.2, below, subject to and in accordance with the provisions of paragraphs 6.1 through 6.5, below; and
- (f) to distribute the balance of the Gross Settlement Fund after payment of items (a) through (e), above (the "Net Settlement Fund") to Authorized Claimants as allowed by the Stipulation, the Settlement Fund Decision Order, any Plan of Allocation, or the Court.

5.2 Upon the Effective Date and thereafter, and in accordance with the terms of the Stipulation, the Settlement Fund Decision Order, the Expense Fund Decision Order, the Plan of Allocation, or such further approval and further order(s) of the Court as may be necessary or as circumstances may require, the Net Settlement Fund shall be distributed to Authorized Claimants, subject to and in accordance with the following:

- (a) Each Newby Settlement Class Member who claims to be an Authorized Claimant shall be required to submit to the Notice and Claims Administrator a completed Proof of Claim and Release signed under penalty of perjury and supported by such documents as specified in the Proof of Claim and Release and as are reasonably available to such Newby Settlement Class Member.
- (b) Except as otherwise ordered by the Court, all Newby Settlement Class Members who fail timely to submit a Proof of Claim and Release within such period as may be ordered by the Court, or otherwise allowed, shall be forever barred from receiving any payments pursuant to the Stipulation and the settlement set forth herein, but shall in all other respects be

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subject to and bound by the provisions of the Stipulation, the releases contained herein, and the Judgment.

(c) The Net Settlement Fund shall be distributed to Authorized Claimants substantially in accordance with the Settlement Fund Decision Order and a Plan of Allocation to be approved by the Court upon such further notice to the Settlement Class as may be required. Any such Plan of Allocation is not a part of this Stipulation.

(d) All Persons who fall within the definition of the Newby Settlement Class only and who do not timely and validly request to be excluded from the Settlement Class in accordance with the instructions set forth in the Mailed Notice (as defined in paragraph 3.1, above) shall be subject to and bound by the provisions of the Stipulation, the releases contained herein, and the Judgment with respect to all Released Claims, and regardless of whether such Persons seek or obtain by any means, including without limitation by submitting a Proof of Claim and Release or any similar document, any distribution from the Gross Settlement Fund or the Net Settlement Fund.

(e) All Persons who fall within the definition of the Tittle Settlement Class, or who fall within the definitions of both the Tittle Settlement Class and the Newby Settlement Class, and who do not timely and validly request to be excluded from the Settlement Class in accordance with the instructions set forth in the Mailed Notice (as defined in paragraph 3.1, above) shall be subject to and bound by the provisions of the Stipulation, the releases contained herein, and the Judgment with respect to all Released Claims, and regardless of whether such Persons seek or obtain by any means, including without limitation by submitting a Proof of Claim and Release or any similar document, any distribution from the Gross Settlement Fund or the Net Settlement Fund.

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(f) All Persons who fall within the definition of the Tittle Settlement Class, or who fall within the definitions of both the Tittle Settlement Class and the Newby Settlement Class, and who do timely and validly request to be excluded from the Settlement Class in accordance with the instructions set forth in the Mailed Notice (as defined in paragraph 3.1, above) shall be subject to and bound by the provisions of the Stipulation, the releases contained herein, and the Judgment with respect to the Tittle ERISA Claims only, and shall be subject to and bound by such provisions regardless of whether such Persons seek or obtain by any means, including without limitation by submitting a Proof of Claim and Release or any similar document, any distribution from the Gross Settlement Fund or the Net Settlement Fund.

5.3 Neither AWSC nor its counsel shall have any responsibility for, interest in, or liability whatsoever with respect to the investment or distribution of the Gross Settlement Fund, the Plan of Allocation, the determination, administration, or calculation of claims, the payment or withholding of Taxes, the distribution of the Net Settlement Fund, or any losses incurred in connection with any such matters.

5.4 No Person shall have any claim against the Representative Plaintiffs, Plaintiffs' Settlement Counsel, the Notice and Claims Administrator, the Released Entities or counsel for the Released Entities based on distributions made substantially in accordance with the Stipulation and the settlement contained herein, the Settlement Fund Decision Order, any Plan of Allocation, or further orders of the Court.

5.5 If there is any balance remaining in the Net Settlement Fund after six (6) months from the date of distribution of the Net Settlement Fund (whether by reason of tax refunds, uncashed checks or otherwise), Plaintiffs' Settlement Counsel may reallocate such balance

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among Authorized Claimants in an equitable and economic fashion. Any balance remaining thereafter may be donated to an appropriate non-profit organization.

5.6 It is understood and agreed by the Settling Parties that any Plan of Allocation of the Net Settlement Fund including, but not limited to, any adjustments to any Authorized Claimant's claim, is not a part of the Stipulation and is to be considered by the Court separately from the Court's consideration of the fairness, reasonableness and adequacy of the settlement set forth in the Stipulation, and any order or proceeding relating to the Plan of Allocation shall not operate to terminate or cancel the Stipulation or affect the finality of the Court's Judgment approving the Stipulation and the settlement set forth herein, or any other orders entered pursuant to the Stipulation.

6. Representative Plaintiffs' Counsel's Attorneys' Fees and Reimbursement of Expenses

6.1 Counsel for the Representative Plaintiffs may, upon such further notice to the Class as may be required, submit an application or applications (the "Fee and Expense Application") for distributions to them from the Newby Settlement Fund or the Tittle Settlement Fund, as appropriate, for: (a) an award of attorneys' fees; plus (b) reimbursement of expenses incurred (and not previously reimbursed pursuant to paragraph 2.2 hereof) in connection with prosecuting the Actions; plus (c) any interest on such attorneys' fees and expenses (until paid) at the same rate and for the same periods as earned by the Newby Settlement Fund or the Tittle Settlement Fund, as appropriate, as may be awarded by the Court. Plaintiffs' Settlement Counsel reserve the right to make additional applications for fees and expenses incurred.

6.2 Any amounts that are awarded by the Court pursuant to paragraph 6.1, above (the "Fee and Expense Award") shall be paid to Plaintiffs' Settlement Counsel from the Newby

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Settlement Fund or the Tittle Settlement Fund, as ordered, immediately after the Court executes an order (or orders) awarding such fees and expenses. In the event that the Effective Date does not occur, or the Judgment or the order making the Fee and Expense Award is reversed or modified, or the Stipulation is cancelled or terminated for any other reason, and in the event that the Fee and Expense Award has been paid to any extent, then Plaintiffs' Settlement Counsel shall, within five (5) business days after receiving notice from counsel for AWSK or from a court of appropriate jurisdiction, refund to the Newby Settlement Fund or the Tittle Settlement Fund, as appropriate, the amounts previously paid to them plus interest thereon at the same rate as earned on the Newby Settlement Fund or the Tittle Settlement Fund, as appropriate, in an amount consistent with such reversal, modification, cancellation, or termination. Each of Plaintiffs' Settlement Counsels' law firms, as a condition of receiving such fees and expenses, on behalf of itself and each partner and/or shareholder of it, agrees that the law firm and its partners and/or shareholders are subject to the jurisdiction of the Court for the purpose of enforcing the provisions of this paragraph.

6.3 The procedure for, and the allowance or disallowance by the Court of, the Fee and Expense Application are not part of the settlement set forth in this Stipulation, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness and adequacy of the settlement set forth in this Stipulation. Any order or proceedings relating to the Fee and Expense Application, or any appeal from any Fee and Expense Award or any other order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel the Stipulation, or affect or delay the finality of the Judgment and the settlement of the Actions as set forth herein.

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6.4 The Released Entities shall have no responsibility for, and no liability whatsoever with respect to, any payment(s) to Plaintiffs' Settlement Counsel pursuant to paragraphs 6.1 and 6.2, above.

6.5 The Released Entities shall have no responsibility for, and no liability whatsoever with respect to, the allocation of the Fee and Expense Award among Plaintiffs' Settlement Counsel, and/or any other Person who may assert some claim thereto, or any Fee and Expense Award that the Court may make in the Actions.

7. Conditions of Settlement, Effect of Disapproval, Cancellation or Termination

7.1 The Effective Date of the Stipulation shall be conditioned on the occurrence of all of the following events:

(a) AWSC shall have timely transferred or caused to be timely transferred the Settlement Amount to the Escrow Agent;

(b) AWSC does not have any right under paragraph 7.4, below, to terminate the Stipulation or, if AWSC does have such right, it has given written notice to Plaintiffs' Settlement Counsel that it will not exercise such right;

(c) the Court has entered the Judgment; and

(d) the Judgment has become Final, as defined in paragraph 1.15, above.

7.2 Upon the occurrence of all of the events referenced in paragraph 7.1, above, any and all remaining interest or right of AWSC in or to the Gross Settlement Fund, if any, shall be absolutely and forever extinguished.

7.3 If all of the conditions specified in paragraph 7.1 are not met, then the Stipulation shall be cancelled and terminated, subject to and in accordance with paragraphs 7.5 and 7.6,

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below, unless Plaintiffs' Settlement Counsel and counsel for AWSC mutually agree in writing to proceed with the Stipulation.

7.4 AWSC shall have the option to terminate the settlement in its entirety in the event that Settlement Class Members who incurred losses of more than a certain amount in connection with their purchases of Enron publicly traded securities or participation in the Savings Plans or receipt of "phantom stock" during the Settlement Class Period choose to exclude themselves from the Class, as set forth in a separate agreement (the "Supplemental Agreement") executed among the Settling Parties.

7.5 Unless otherwise ordered by the Court, in the event that the Stipulation should terminate, or be cancelled, or otherwise fail to become effective for any reason, including without limitation in the event that the Judgment is reversed or vacated following any appeal taken therefrom, then within ten (10) business days after written notification of such event is sent by counsel for AWSC or by Plaintiffs' Settlement Counsel to the Escrow Agent, the Settlement Amount, together with all interest accrued thereon, shall be refunded to AWSC or as directed by AWSC's counsel, less only (a) reasonable expenses that have either been properly disbursed or are due and owing pursuant to paragraph 3.1, above, and (b) Taxes and Tax Expenses that have been paid, or that have accrued and will be payable at some later date, by the Representative Plaintiffs. If said amount is not returned within such ten (10) day period, then interest shall accrue thereon at the rate of five (5) percent per annum until the date that said amount is returned. At the written request of counsel for AWSC, the Escrow Agent or its designee shall apply for any tax refund owed to the Gross Settlement Fund and pay the proceeds, after deduction of any fees or expenses reasonably incurred in connection with such application(s) for refund, pursuant to such written request.

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7.6 In the event that the Stipulation should terminate, or be cancelled, or otherwise fail to become effective for any reason, including without limitation in the event that the Judgment is reversed or vacated following any appeal taken therefrom, then (i) the Settling Parties shall be restored to their respective positions in the Actions as of August 28, 2002, with all of their respective claims and defenses, including without limitation all objections to jurisdiction by AWSC and the AWSC Entities, preserved as they existed on that date; (ii) the terms and provisions of the Stipulation, with the exception of paragraphs 1.1 through 1.46, 2.2, 2.6(h), 2.11, 6.2, 7.4 through 7.6, 8.2, 8.4 through 8.8, 8.11 through 8.13, and 8.17 herein (which shall continue in full force and effect), shall be null and void and shall have no further force or effect with respect to the Settling Parties, and neither the existence nor the terms of this Stipulation (nor any negotiations preceding this Stipulation nor any acts performed pursuant to, or in furtherance of, this Stipulation) shall be used in the Actions or in any other action or proceeding for any purpose, (iii) any judgment or order entered by the Court in accordance with the terms of the Stipulation shall be treated as vacated, *nunc pro tunc*; and (iv) the Settlement Class, if it has been certified, shall be decertified. No order of the Court or modification or reversal on appeal of any order of the Court concerning the arbitration described in paragraph 2.4, above, or concerning any Plan of Allocation, or concerning any Fee and Expense Award shall constitute grounds for cancellation or termination of the Stipulation. If the Effective Date does not occur, or if the Stipulation is terminated pursuant to its terms, neither the Representative Plaintiffs nor any of their counsel shall have any obligation to repay any amounts actually and reasonably incurred or disbursed pursuant to paragraph 3.1, above.

7.7 If a case is commenced in respect to any Released Entity under Title 11 of the United States Code (Bankruptcy), or a trustee, receiver or conservator is appointed under any

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similar law, and in the event that any amount paid for the benefit of the Settlement Class under paragraph 2.1, above, by or on behalf of such Released Entity is determined to be a preference, voidable transfer, fraudulent transfer, or similar transaction by a final order of a court of competent jurisdiction, and the Representative Plaintiffs are required to return such amount to such Released Entity, then, as to such Released Entity, the releases given and Judgment entered in favor of such Released Entity pursuant to this Stipulation shall be null and void, but only to the extent of the amount of preference actually returned to such Released Entity's estate.

8. Miscellaneous Provisions

8.1 The Settling Parties: (a) acknowledge that it is their intent to consummate this agreement; and (b) agree to cooperate to the extent reasonably necessary to effectuate and implement all terms and conditions of the Stipulation and to exercise their best efforts to accomplish the foregoing terms and conditions of the Stipulation.

8.2 AWSC's obligations and responsibilities arising from, concerning, or in respect of the settlement described herein, including, but not limited to, those respecting the establishment of the Gross Settlement Fund, shall be those of AWSC exclusively, without any right of recourse of any kind against any other person or entity; and all Settlement Class Members stipulate and agree that they will not, under any circumstances, assert any claim concerning, or in any way seek payment or performance of, any obligation contained or implied in the settlements from any person or entity (including without limitation any AWSC Entity) other than AWSC. In the event that the settlement is terminated or does not receive preliminary or final court approval, or any amount paid for the benefit of the Settlement Class under paragraph 2.1, above, is determined to be a preference, voidable transfer, fraudulent transfer, or similar transaction by a final order of a court of competent jurisdiction and the Representative Plaintiffs are required to return such

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amount to AWSC or any AWSC Entity, then the Representative Plaintiffs have the right to bring, revive, or reinstate all claims against AWSC and any AWSC Entity, including each and every individual and entity set forth in paragraph 1.5(d)(i), (ii), (iii), (iv), and (v) hereof, by refunding the Settlement Amount to AWSC, within sixty (60) days, together with all interest accrued thereon, less only (a) reasonable expenses that have either been properly disbursed or are due and owing pursuant to paragraph 3.1, above, and (b) Taxes and Tax Expenses that have been paid, or that have accrued and will be payable at some later date, by the Representative Plaintiffs. If the Settlement Amount is refunded to AWSC by the Representative Plaintiffs pursuant to this paragraph 8.2, then at the written request of counsel for AWSC, the Escrow Agent or its designee shall apply for any tax refund owed to the Gross Settlement Fund and pay the proceeds, after deduction of any fees or expenses reasonably incurred in connection with such application(s) for refund, pursuant to such written request.

8.3 AWSC warrants that, at the time that it paid the Settlement Amount to the Escrow Agent, it was not insolvent and that such payment did not render it insolvent.

8.4 The Settling Parties intend this settlement to be a final and complete resolution of all disputes between them with respect to the Actions. The settlement compromises claims that were contested and shall not be deemed an admission by any Settling Party as to the merits of any claim or defense. While the Released Entities deny that the claims advanced in the Actions were meritorious, the Released Entities will not deny in any statement made to any media representative (whether or not for attribution) that the Actions were filed in good faith and are being settled voluntarily after consultation with competent legal counsel. The Judgment will contain a statement that during the course of the Actions, the parties and their respective counsel at all times complied with the requirements of Federal Rule of Civil Procedure 11. The Settling

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Parties agree that the Settlement Amount and the other terms of the settlement were negotiated in good faith by the Settling Parties, and reflect a settlement that was reached voluntarily after consultation with competent legal counsel. Nothing in this paragraph shall prohibit any comment on the accuracy of any public description of the settlement.

8.5 Neither the Stipulation nor the settlement, nor any act performed or document executed pursuant to or in furtherance of the Stipulation or the settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of any Released Entity; or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any Released Entity in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. Any Released Entity may file the Stipulation and/or the Judgment in any action that may be brought against it in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

8.6 All agreements made and orders entered during the course of the Actions relating to the confidentiality of information shall survive this Stipulation.

8.7 It is expressly understood and agreed that all AWSC Entities, including specifically but without limitation all entities described in paragraph 1.5, above, are intended to be third-party beneficiaries of this Agreement and that any AWSC Entity may enforce any rights created under this Agreement on its own behalf and in its own name.

8.8 Neither the Stipulation nor the settlement, nor any action taken by any Person or any document executed pursuant to or in furtherance of the Stipulation or the settlement (including without limitation any action taken or any document executed in connection with

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negotiating, consummating, or implementing the Stipulation or the settlement), constitutes a submission to the jurisdiction of the courts of the United States, Texas, or any of the other United States by AWSC or any AWSC Entity. Neither the Stipulation nor the settlement, nor any such action taken or document executed, is or may be deemed to be or may be used as an admission that, or evidence that, AWSC or any AWSC Entity is subject to such jurisdiction, and neither the Stipulation or the settlement, nor any such action taken or document executed, shall be used by any Person as evidence supporting the exercise of such jurisdiction. Notwithstanding anything else contained in this Stipulation, the provisions of this paragraph 8.8 shall survive under all circumstances, whether the settlement set forth in this Stipulation succeeds or fails.

8.9 All of the Exhibits to the Stipulation are material and integral parts hereof and are fully incorporated herein by this reference.

8.10 The Stipulation may be amended or modified only by a written instrument signed by or on behalf of all Settling Parties or their respective successors-in-interest.

8.11 The Stipulation, the Exhibits attached hereto, and the Supplemental Agreement constitute the entire agreement between Plaintiffs' Settlement Counsel and AWSC and no representations, warranties or inducements have been made to any party concerning the Stipulation or its Exhibits or the Supplemental Agreement other than the representations, warranties and covenants contained and memorialized in such documents. Except as otherwise provided herein, each party shall bear its own costs.

8.12 Plaintiffs' Settlement Counsel, on behalf of the Settlement Class, are expressly authorized by the Representative Plaintiffs to take all appropriate action required or permitted to be taken by or on behalf of the Settlement Class pursuant to the Stipulation to effectuate its terms

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and also are expressly authorized to enter into any modifications or amendments to the Stipulation on behalf of the Settlement Class that they deem appropriate.

8.13 Each counsel or other Person executing the Stipulation or any of its Exhibits on behalf of any party hereto hereby warrants that such Person has the full authority to do so.

8.14 The Stipulation may be executed by facsimile and in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. Counsel for the parties to the Stipulation shall exchange among themselves original signed counterparts and a complete set of executed counterparts shall be filed with the Court.

8.15 The Stipulation shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto.

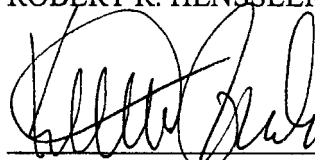
8.16 The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of the Stipulation.

8.17 The Stipulation, the Exhibits hereto, and the Supplemental Agreement shall be considered to have been negotiated, executed and delivered, and to be wholly performed, in the State of Texas, and the rights and obligations of the parties to the Stipulation shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of Texas without giving effect to that State's choice of law principles.

IN WITNESS WHEREOF, the parties hereto have caused the Stipulation to be executed, by their duly authorized attorneys, dated as of August 29, 2002.

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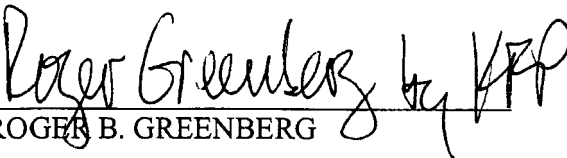
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